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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

29 SANTA BARBARA CHANNELKEEPER,) CASE NO. CV 11-03624 AGR
30 a California non-profit corporation,)

31) CONSENT DECREE

32 Plaintiff,)

33 v.)

34 CITY OF SANTA BARBARA, a California)
35 municipal corporation,)

36 Defendants.)
37
38

CONSENT DECREE

The following Consent Decree is entered into by and between Plaintiff Santa Barbara Channelkeeper (“Plaintiff” or “Channelkeeper”) and Defendant City of Santa Barbara (“Defendant” or “City”). The entities entering into this Consent Decree are each an individual “Party” and collectively “Parties.”

WHEREAS, Channelkeeper is a non-profit public benefit corporation dedicated to, among other things, the protection and enhancement of the water quality of the Santa Barbara Channel;

WHEREAS, the City is a municipal corporation established by California state law;

WHEREAS, the City owns and operates a sewage collection system that serves the City of Santa Barbara (“City Collection System”);

WHEREAS, the City Collection System is intended to convey sewage to the City of Santa Barbara’s El Estero Wastewater Treatment Plant (“the EE WWTP”);

WHEREAS, the City acknowledges its responsibility to maintain building laterals serving City buildings;

WHEREAS, the City operates a Municipal Separate Storm Sewer System;

WHEREAS, the City Collection System and the EE WWTP are regulated by the Federal Water Pollution Control Act, 33 U.S.C., §§ 1251 *et seq.* (“Clean Water Act” or “CWA”) and are permitted under Regional Water Quality Control Board, Central Coast Region (“RWQCB”) Order No. R3-2010-0011, NPDES Permit No. CA0048143 (“POTW Permit”);

WHEREAS, the City’s municipal separate storm sewer is regulated by the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.* (“Clean Water Act” or “CWA”) and is permitted under *Waste Discharge Requirements for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems (General Permit)*, State Water Resources Control Board, Order No. 2003–0005–DWQ, NPDES Permit No. CAS000004 (“MS4 Permit”);

1 WHEREAS, on February 24, 2011, Channelkeeper issued a sixty (60) day
2 notice letter ("Notice Letter") to the City. The Notice Letter alleged violations of
3 the Clean Water Act, the POTW Permit, and the MS4 Permit for sanitary sewer
4 overflows ("SSOs") from the City Collection System and informed the City of
5 Channelkeeper's intention to file suit against the City. The Notice Letter was sent to
6 the Administrator of the United States Environmental Protection Agency ("EPA"),
7 the Administrator of EPA Region IX, and the Executive Director of the State Water
8 Resources Control Board ("State Board"), as required by section 505(b)(1)(A) of the
9 Clean Water Act, 33 U.S.C. § 1365(b)(1)(A). The Notice Letter was also sent to the
10 Executive Officer of the Regional Board;

11 WHEREAS, on April 27, 2011, Channelkeeper filed its complaint against the
12 City in the United States District Court for the Central District of California, Case
13 No. CV-11-03624 JHN (AGRx) (hereinafter "Complaint");

14 WHEREAS, on October 25, 2011, Channelkeeper issued a supplemental sixty
15 (60) day notice letter ("Supplemental Notice Letter"). The Supplemental Notice
16 Letter alleged violations of the Clean Water Act, the POTW Permit, and the MS4
17 Permit for alleged discharges of raw sewage from the City Collection System into
18 the MS4 via cracks, holes or other pipe defects, and of Channelkeeper's intention to
19 amend the Complaint to add these claims. The Supplemental Notice Letter was sent
20 to the Administrator of the United States Environmental Protection Agency
21 ("EPA"), the Administrator of EPA Region IX, and the Executive Director of the
22 State Water Resources Control Board ("State Board"), as required by section
23 505(b)(1)(A) of the Clean Water Act, 33 U.S.C. § 1365(b)(1)(A). The
24 Supplemental Notice Letter was also sent to the Executive Officer of the Regional
25 Board

26 WHEREAS, the City denies Channelkeeper's allegations that it has violated
27 the Clean Water Act or any permit and denies it has liability to Channelkeeper;

28 WHEREAS, the Parties, through their authorized representatives and without

1 either adjudication of the Complaint's claims or admission by the City of any
 2 alleged violation or other wrongdoing, have chosen to resolve this action through
 3 settlement to avoid the costs and uncertainties of further litigation;

4 WHEREAS, the City has executed a Service Contract with Brown and
 5 Caldwell ("B&C") for Development of Wastewater Collection System Strategic
 6 Management Program – ("Phase I Agreement") dated January 11, 2011, to:

- 7 • Review and update the City's routine cleaning and Accelerated
 8 Cleaning Programs, including development of standardized procedures
 9 for cleaning and for reporting maintenance activities;
- 10 • Review and update the City's emergency SSO response program;
- 11 • Update the City's Computerized Maintenance Management Software
 12 ("CMMS") to implement improvements to the City's asset
 13 management program; and
- 14 • Link the City's CMMS to its Geographic Information System ("GIS");

15 WHEREAS, the City has also executed a Service Contract with B&C for
 16 Development of Wastewater System Strategic Management Program - ("Phase II
 17 Agreement") dated June 7, 2011, to:

- 18 • Develop a plan for inspecting and assessing the condition of Gravity
 19 Sewers;
- 20 • Develop a method for prioritizing future replacement, rehabilitation,
 21 and repair projects;
- 22 • Assess the condition of the City's pump stations and Force Mains and
 23 make recommendations for prioritizing needed repairs;
- 24 • Review and update the City's FOG program; and
- 25 • Update the City's current Sewer System Management Plan;

26 WHEREAS, this Consent Decree requires the City to continue its work with
 27 B&C to implement certain provisions set forth herein;

28 WHEREAS, all actions taken by the City pursuant to this Consent Decree will

1 be made in compliance with all applicable federal, state and local rules and
2 regulations; and
3

4 **NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN THE**
5 **PARTIES AND ADJUDGED, ORDERED AND DECREED BY THE COURT**
6 **AS FOLLOWS:**

7 **I. GENERAL OBJECTIVES**

8 1. The objectives of this Consent Decree are:

- 9 a. To ensure that the City uses, implements, and improves its
10 ways, means, and methods to prevent SSOs;
11 b. To ensure that the City uses, implements, and improves its
12 ways, means, and methods to comply with the Clean Water Act; and
13 c. To further the goals and objectives of the Clean Water Act.

14 **II. DEFINITIONS**

15 2. Unless otherwise expressly defined herein, terms used in this Consent
16 Decree that are defined in the Clean Water Act or in regulations, or in rules
17 promulgated under the Clean Water Act, have the meaning assigned to them in the
18 applicable statutes, regulations, or rules. Whenever terms listed below are used in
19 this Consent Decree, the following definitions apply:

- 20 a. "10-Year 24-Hour Storm" means rainfall occurring over 24
21 hours with rainfall amounts, as measured by a properly calibrated rain gage that
22 records hourly rain data within the City, maintained by the County of Santa Barbara
23 Flood Control District and located at the Santa Barbara County Building, Station
24 234, expected to be equaled or exceeded every 10 years on average.
25 b. "Consent Decree" means this Consent Decree, and any exhibits
26 incorporated by reference to this Consent Decree.
27 c. "Accelerated Cleaning Program" means the City's program to
28 regularly clean Sewer Line Segments in the City Collection System that have been

1 identified, based on field observations, maintenance history, maintenance condition
 2 findings, CCTV assessments or other information to have a risk of causing a
 3 maintenance-related SSO.

4 d. "CCTV" means closed-circuit television.

5 e. "CIP" means the City's capital improvement plan for pipe repair,
 6 replacement and rehabilitation and other capital projects for the City Collection
 7 System, which is comprised of the Lift Station Maintenance Program and the
 8 Sanitary Sewer Overflow Compliance Program and other projects as from time to
 9 time may be added for collection system improvement.

10 f. "City" means the City of Santa Barbara.

11 g. "City Collection System" means the sewer pipes and lines,
 12 manholes or maintenance holes, and all appurtenances thereto owned by the City
 13 that are used to convey wastewater generated by residential, commercial, and
 14 industrial sources to the EE WWTP. For purposes of this Consent Decree, the City
 15 Collection System does not include building laterals.

16 h. "Day" means a calendar day. In computing any period of time
 17 under this Consent Decree, where the last day of such period is a Saturday, Sunday,
 18 or Federal or State Holiday, the period runs until the close of business on the next
 19 day that is not a Saturday, Sunday, or City or Federal or State Holiday.

20 i. "Gravity Sewer" means pipes within the City Collection System
 21 that convey wastewater by gravity flow.

22 j. "FOG" means fats, oil, and grease.

23 k. "Force Main" means the pipelines within the City Collection
 24 System that convey wastewater under pressure from the discharge side of a pump or
 25 pneumatic ejector to a discharge point.

26 l. "Sanitary Sewer Overflow" or "SSO" means any overflow, spill,
 27 release, discharge or diversion of untreated or partially treated wastewater from the
 28 City Collection System. SSOs include: (i) Overflows or releases of untreated or

1 partially treated wastewater that reach waters of the United States; (ii) Overflows or
 2 releases of untreated or partially treated wastewater that do not reach waters of the
 3 United States; and (iii) Wastewater backups into buildings and on private property
 4 that are caused by blockages or flow conditions within the publicly owned portion
 5 of a sanitary sewer system. For purposes of this Consent Decree, SSOs do not
 6 include overflows or releases of untreated or partially treated wastewater that reach
 7 the MS4 via the subsurface environment. For purposes of this definition, “waters of
 8 the United States” has the meaning as set forth in 40 C.F.R. § 122.2 and as
 9 interpreted in applicable case law.

10 m. “Sanitary Sewer Overflow Compliance Program” refers to the
 11 program identified in the City’s 2011-2016 Capital Improvement Plan dated March
 12 2010, as updated from time to time.

13 n. “Sewer Line Segment” means any section of publicly owned
 14 sewer line or pipe located between: (1) two manholes/maintenance holes; (2) a
 15 pump station and a manhole/maintenance hole; (3) a pump station or a
 16 manhole/maintenance hole and a Headworks structure; or (4) a sewer line or pipe
 17 otherwise identifiable as a discrete section.

18 o. “SSMP” means the Sewer System Management Plan developed
 19 by the City to manage, operate and maintain the City Collection System. State
 20 Water Resources Control Board Order No. 2006-0003-DWQ, *Statewide General*
 21 *WDR For Wastewater Collection Agencies*, ¶¶ 5-11, D.13.

22 p. “Year” will mean calendar year, unless otherwise specified.

23 **III. JURISDICTION AND VENUE**

24 3. For purposes of settlement, the Parties stipulate to the Court’s
 25 jurisdiction to enter and retain jurisdiction over the Parties to enforce the terms of
 26 this Consent Decree if necessary.

27 **IV. EFFECT OF CONSENT DECREE**

28 4. Notwithstanding the General Objectives of this Consent Decree,

1 Channelkeeper does not, by its consent to this Consent Decree, warrant or aver in
2 any manner that the City's compliance with this Consent Decree will constitute or
3 result in compliance with any federal or state law or regulation. This Consent
4 Decree is neither a permit nor a modification of existing permits under any federal,
5 state, or local law and in no way relieves the City of its responsibilities to comply
6 with all applicable federal, state and local laws and regulations.

7 5. Nothing in this Consent Decree will be construed as an admission by
8 the City, and the City does not intend to imply any admission as to any fact, finding,
9 issue of law, or violation of law, nor will compliance with this Consent Decree be
10 construed as an admission by the City of any fact, finding, conclusion, issue of law,
11 or violation of law.

12 6. Compliance with this Consent Decree resolves Channelkeeper's civil
13 claims for violations against the City, including all claims for civil penalties,
14 injunctive relief and attorneys' fees.

15 V. APPLICABILITY

16 7. The provisions of this Consent Decree apply to and bind the Parties,
17 including any successors or assigns. The Parties certify that their undersigned
18 representatives are fully authorized to enter into this Consent Decree, to execute it
19 on behalf of the Parties, and to legally bind the Parties to its terms.

20 8. The Parties agree to be bound by this Consent Decree and not to contest
21 its validity in any subsequent proceeding to implement or enforce its terms. The
22 City does not admit liability for any purpose as to any allegation or matter arising
23 out of the Notice Letter, the Supplemental Letter, and/or Complaint or subsequent
24 incidents occurring during the term of this Consent Decree.

25 9. No change in ownership or corporate or other legal status of the City or
26 any transfer of the City's assets or liabilities will in any way alter the responsibilities
27 of the City, or any of its successors or assigns, under this Consent Decree.

28 10. In any action to enforce this Consent Decree, the City will not raise as a

1 defense the failure by any of its agents, servants, contractors, employees, and
 2 successors or assigns to take actions necessary to comply with this Consent Decree.

3 **VI. EFFECTIVE DATE AND TERMINATION DATE**

4 11. The term "Effective Date" shall mean the Effective Date of this
 5 Consent Decree, which shall be the date on which the District Court enters the final
 6 Consent Decree.

7 12. This Consent Decree will automatically and unconditionally terminate
 8 on March 31, 2017 ("Termination Date") unless the City seeks early termination of
 9 this Consent Decree pursuant to this paragraph. The City may seek early
 10 termination of this Consent Decree if the City has no more than eight (8) SSOs per
 11 Year from the City Collection System in two consecutive calendar years.¹

12 13. The City shall initiate early termination by submitting a letter to
 13 Channelkeeper demonstrating that it has satisfied the conditions of early termination
 14 set forth in Paragraph 12. Channelkeeper shall respond to the City's letter within
 15 twenty (20) days indicating whether it agrees with the City's contentions or request
 16 more information to determine whether to agree with the City's contentions. If
 17 Channelkeeper agrees with the City's contentions, then the City shall prepare a joint
 18 motion for termination of this Consent Decree for Channelkeeper's review and
 19 signature. Channelkeeper shall not unreasonably withhold its signature. The City
 20 shall then file the joint motion for termination. If Channelkeeper disagrees with the
 21 City's contentions or requests additional information, then the matter shall be
 22 subject to the Dispute Resolution provisions of Section XXV.

23 **VII. SSO REDUCTION PERFORMANCE STANDARDS**

24 14. The City will reduce its SSOs to comply with the following SSO
 25 Reduction Performance Standards and will direct B&C to design its

26 _____
 27 ¹ For purposes of calculating compliance with the early termination provisions of Paragraph 12,
 28 SSOs that satisfy the requirements set forth in Paragraph 14(b) will not be counted.

1 recommendations referenced herein to achieve said standards²:

2 a. Limitation on total SSOs per year:

3 Table 1

4 Calendar Year	Maximum Number of SSOs
5 2012	18
6 2013	15
7 2014	12
8 2015	10
9 2016	8

10
11
12 b. For purposes of determining compliance with the SSO Reduction
13 Performance Standards, SSOs caused by: (i) severe natural conditions (such as
14 storm events exceeding a 10-Year 24-Hour Storm, hurricanes, tornadoes,
15 earthquakes, tsunamis, and other similar natural conditions) or (ii) human-caused
16 catastrophes (such as catastrophic fires or acts of terrorism) shall not be counted.

17 **VIII. SSO REDUCTION ACTION PLAN**

18 15. The City shall report any failure to meet the applicable SSO Reduction
19 Performance Standard in each Annual Report required under Section XX of this
20 Consent Decree. In the event the City fails to meet the applicable SSO Reduction
21 Performance Standard for any particular Year (as set forth in Table 1), the City shall
22 prepare an SSO Reduction Action Plan designed to achieve compliance with the
23 SSO Reduction Performance Standard set forth for the following calendar year, and
24 submit it to Channelkeeper concurrently with the City's Annual Report.

25 _____
26 ² The Parties acknowledge that B&C may disclaim any warranty that implementation of its
27 recommendations will achieve SSO Reduction Performance Standards and may thus include such
28 disclaimers along with any recommendations, studies or reports submitted to the City. Any such
disclaimers by B&C shall not be considered a violation of this Consent Decree.

1 16. The SSO Reduction Action Plan shall specify the actions taken in the
2 Year for which the Annual Report was submitted that were designed to achieve
3 compliance with the SSO Reduction Performance Standards, and shall specify
4 additional measures to be taken during the upcoming Year and thereafter to achieve
5 compliance with the SSO Reduction Performance Standards. The SSO Reduction
6 Action Plan shall include a proposed schedule for implementation of all actions
7 proposed.

8 17. If the City does not comply with SSO Reduction Performance
9 Standards because of one or more SSOs for which the City had no feasible
10 alternatives, based on reasonable engineering judgment, that it could have
11 implemented to avoid the SSO(s), then the City's SSO Reduction Action Plan shall
12 include an explanation to that effect and need not propose additional actions.

13 18. Channelkeeper will review the Action Plan and submit comments, if
14 any, on the Action Plan within thirty (30) days of receipt. The City shall consider
15 Channelkeeper comments in good faith, and shall have fifteen (15) days from
16 receipt of Channelkeeper's comments to either incorporate those comments into the
17 Action Plan, or explain in writing why those comments were not accepted. Disputes
18 as to the adequacy of the Action Plan are to be resolved via Dispute Resolution as
19 set out in Section XXV below. Following agreement on, or resolution of any
20 dispute regarding the SSO Reduction Action Plan, the requirements and terms of the
21 SSO Reduction Action Plan shall become enforceable elements of this Consent
22 Decree subject to Dispute Resolution provisions of Section XXV.

23 19. The City may modify an SSO Reduction Action Plan as necessary to
24 account for new information or changed circumstances. The terms of any SSO
25 Reduction Action Plan in place at the time the City seeks modification remain in
26 effect until the modified Action Plan becomes effective. To modify an SSO
27 Reduction Action Plan, the City will provide Channelkeeper with a copy of the
28 revised plan along with an explanation of the new information or changed

1 circumstances that necessitated the modification. Channelkeeper will review the
2 modified Action Plan and submit comments, if any, on the modified Action Plan
3 within thirty (30) days of receipt. The City shall consider Channelkeeper comments
4 in good faith, and shall have fifteen (15) days from receipt of Channelkeeper's
5 comments to either incorporate those comments into the modified Action Plan, or
6 explain in writing why those comments were not accepted. Disputes as to the
7 adequacy of the Action Plan are to be resolved via Dispute Resolution as set out in
8 Section XXV below. Following agreement on, or resolution of any dispute
9 regarding the modified SSO Reduction Action Plan, the requirements and terms of
10 the modified SSO Reduction Action Plan shall become enforceable elements of this
11 Consent Decree subject to the Dispute Resolution provisions of Section XXV.

12 **IX. FATS, OILS AND GREASE PROGRAM**

13 20. The City shall continue to implement its existing residential and
14 commercial FOG program pending implementation of program improvements
15 recommended by B&C. On or before July 31, 2012, the City shall cause B&C to
16 assess the adequacy of the City's existing FOG program to reduce FOG related
17 spills, and to prepare a FOG Program Plan. The FOG Program Plan shall set forth
18 B&C's recommendations for improvements to the City's FOG program to reduce
19 the City's FOG related spills, including a brief cost benefit analysis comparing the
20 cost and effectiveness of cleaning to FOG source control. On or before December
21 31, 2012, the City shall implement the FOG Program Plan recommended by B&C.

22 **X. SSO RESPONSE AND REPORTING PROGRAM**

23 21. Within thirty (30) days of the Effective Date, the City shall cause B&C
24 to review and analyze the City's existing SSO response, record keeping, notification
25 and reporting program and to prepare an updated SSO Response and Reporting Plan
26 that incorporates B&C's recommendations for improvements to the City's SSO
27 response program. The updated SSO Response and Reporting Plan shall at a
28 minimum require that the City:

- a) adopts a spill volume estimate methodology, and trains spill responders in its use and requires that spill responders use that methodology;
- b) accurately reports whether the spill reaches the MS4, and whether the MS4 is flowing;
- c) accurately reports the receiving water to which the spill is discharged, including spills to the MS4 which then discharge to a receiving water;
- d) accurately describes all spill response measures, including clean up, and spill cause;
- e) except for SSOs clearly caused by storm events exceeding a 10-Year 24-Hour storm, requires follow up CCTV inspection to further identify or confirm the cause of the spill, and identify an appropriate approach to prevent future spills from the same location;
- f) identifies all spills caused by roots entering the sewer main from laterals; and
- g) accurately notes rainfall at the time of the spill.

22. The City shall implement the updated SSO Response and Reporting Plan within ninety (90) days of the Effective Date.

23. Disputes as to the adequacy of the SSO Response and Reporting Plan shall be resolved via Dispute Resolution as set out in Section XXV below.

XI. SYSTEM-WIDE SEWER CLEANING AND ACCELERATED CLEANING PROGRAMS

24. The City shall continue to clean all of its gravity Sewer Line Segments eighteen (18) inches in diameter or smaller in the City Collection System at least once every five (5) years.

25. The City shall continue to include 4-month, 6-month, 12-month and 24-month cleaning frequencies in its Accelerated Cleaning Program. The City shall include any Sewer Line Segment that has a blockage caused by roots, debris, grease or pipe condition in its Accelerated Cleaning Program; provided however, in the

1 event a Sewer Line Segment has been repaired, rehabilitated or replaced, or the
2 source of the materials causing the need for accelerated cleaning is eliminated, the
3 City may remove such Sewer Line Segment from the Accelerated Cleaning
4 Program. The Accelerated Cleaning Program results will be maintained in the
5 City's CMMS system.

6 26. Within thirty (30) days of the Effective Date, the City shall cause B&C
7 to review and evaluate the City's existing cleaning program and to recommend
8 improvements, and prepare a Cleaning Program Plan setting forth the recommended
9 cleaning program. The Cleaning Program Plan shall address: cleaning methods,
10 strategies and procedures; methods, strategies and procedures for root control;
11 quality assurance quality control program; procedures for recording cleaning
12 findings; and methodology for changing cleaning frequency based on cleaning
13 findings.

14 27. The City shall implement the Cleaning Program Plan within ninety (90)
15 days of the Effective Date.

16 28. Disputes as to the adequacy of the Cleaning Program Plan shall be
17 resolved via Dispute Resolution as set out in Section XXV below.

18 XII. SEWER CONDITION ASSESSMENT

19 29. On or before July 31, 2012, the City shall cause B&C to develop a
20 CCTV and Condition Assessment Work Plan. The Plan shall include a schedule for
21 assessing all of the Gravity Sewers in the City Collection System. The condition of
22 each Sewer Line Segment inspected using CCTV shall be coded using the Pipeline
23 Assessment and Certification Program ("PACP") table attached as Exhibit A.

24 30. Disputes as to the adequacy of the Condition Assessment Work Plan
25 shall be resolved via Dispute Resolution as set out in Section XXV below.

26 31. On or before December 31, 2012, the City shall begin implementation
27 of the CCTV and Condition Assessment Work Plan, and shall implement pipe repair
28 and/or replacement as set forth in the PACP Coding matrix.

1 32. On or before July 31, 2012, the City shall cause B&C to develop an
2 inspection database to be incorporated into the City's CMMS system that documents
3 the condition assessment rating for all Sewer Line Segments inspected pursuant to
4 the City's CCTV and Condition Assessment Work Plan as described in Paragraph
5 29 above.

6 **XIII. CAPACITY ASSURANCE**

7 33. On or before July 31, 2012, the City shall cause B&C or another
8 qualified consultant to review the City's 2010 Master Plan prepared by Akel
9 Engineering, the capacity assessment associated with the Master Plan, and any other
10 appropriate documents, and to generate a Capacity Assurance Program. The
11 Capacity Assurance Program shall evaluate whether the City has adequate capacity
12 to prevent capacity related SSOs from the Collection System during rain events up
13 to and including a 10-Year 24-Hour Storm, recommend capacity assessment where
14 appropriate, and prioritize and plan identified capacity projects sufficient to ensure
15 adequate capacity to prevent spills up to the 10-Year 24-Hour Storm.

16 **XIV. PUMP STATION AND FORCE MAIN**

17 **CONDITION ASSESSMENT**

18 34. The City shall cause B&C to conduct a condition assessment of its
19 pump stations and force mains to determine their overall capacity and reliability.
20 On or before July 31, 2012, the City shall cause B&C to prepare a Pump Station and
21 Force Main Condition Assessment Plan ("PSFM Plan"). The PSFM Plan shall
22 identify and prioritize needed upgrades and/or repairs, including SCADA, back up
23 generators, and/or capacity upgrades, and specify methods and a time schedule for
24 performing future condition assessments of the City's pump stations and force
25 mains. On or before December 31, 2012, the City shall adopt and implement the
26 PSFM Plan.

27 **XV. DATABASE DEVELOPMENT**

28 35. Within two hundred and seventy (270) days of the Effective Date, the

1 City shall develop a database of pipe invert elevations or other verifiable and
2 reliable information, such as as-built drawings, measurement of invert depths of
3 manholes, or interpolation of invert elevations from reasonably close known invert
4 elevations, which will allow the City to evaluate the relative depths of the sewer
5 pipes in the entire City Collection System and separate storm sewer pipes in the
6 City's entire MS4. This database shall be used to identify High Risk Pipes as
7 defined in Paragraph 42 below.

8 36. Within thirty (30) days of the Effective Date, the City shall implement
9 and maintain an updated CMMS system, linked to GIS, to record and track pertinent
10 asset management, operations, and maintenance. This information system shall be
11 used to plan system operation and maintenance and capital improvement projects.

12 37. Within thirty (30) days of the Effective Date, the City shall cause B&C
13 to review and analyze the City Collection System pipe and manhole attribute data
14 and identify any data gaps that are critical to the operation and maintenance of the
15 City Collection System. By July 31, 2012, the City shall cause B&C to develop a
16 plan to populate the City's GIS and CMMS databases to address critical data gaps
17 identified by B&C. The City shall adopt and implement B&C's plan to populate the
18 City's GIS and CMMs databases within one year of the Effective Date.

19 **XVI. CAPITAL IMPROVEMENT PROJECTS**

20 38. The City shall continue its longstanding program of repair,
21 rehabilitation, or replacement of one (1) percent of the City Collection System sewer
22 mains per Year. Specifically, the City shall repair, rehabilitate or replace a total of
23 two and fifty-six hundredths (2.56) miles of sewer pipe each Year. If the City
24 repairs, rehabilitates or replaces more than two and fifty-six hundredths (2.56) miles
25 in any Year, that additional length of pipe shall be credited to the City in the
26 following Year(s). Pipes repaired, rehabilitated, or replaced to satisfy this paragraph
27 shall be exclusive of pipes repaired, rehabilitated, or replaced to satisfy Section
28 XVII below.

39. To comply with this Section, the City will prioritize for repair, rehabilitation or replacement any Sewer Line Segment or portion thereof identified in the Capacity Assurance Program, the Condition Assessment Program, the Cleaning Program, and/or the PSFM Program to be in need of repair, rehabilitation or replacement. Such prioritization shall be consistent with B&C's recommendations and the PACP Table in Exhibit A.

40. To comply with this Section, the City shall revise its CIP on an ongoing annual basis to include rehabilitation, repair or replacement projects, including but not limited to, projects identified in the Condition Assessment Program and PACP Table, the Capacity Assurance Program, the Cleaning Program, and the PSFM Program.

XVII. EXFILTRATION

41. The City shall develop and implement an Exfiltration Abatement Program. The goal of this Program is to identify and prioritize for pipe rehabilitation, replacement or repair, those gravity sewer lines that have a high risk of leaking wastewater from the City Collection System to the MS4.

42. As part of this Program, the City shall identify sewer segments meeting all of the following criteria: (i) sanitary sewer segments that are constructed of vitrified clay or reinforced concrete; (ii) sanitary sewer segments that cross above MS4 pipes or are above and within five (5) meters horizontally of MS4 pipes; (iii) sanitary sewer segments installed prior to 1991, or, for those installed since 1991, a condition assessment that identifies that the sanitary sewer segment has a crack, offset joint, or some other structural defect; and (iv) the sewer segments that are above the water table (“High Risk Pipes”). All sewer pipes in the City Collection System for which the City already possesses necessary information to evaluate using criteria (i)-(iv) of this paragraph shall be evaluated and designated as High Risk Pipes, as appropriate, within thirty (30) days of the Effective Date. All other sewer pipes in the City Collection System shall be evaluated and designated High Risk

1 Pipes, or not, by June 30, 2013.

2 43. The City shall repair, rehabilitate, or replace a total of two (2) miles of
3 High Risk Pipes each Year beginning in 2012. High Risk Pipes in the Laguna
4 Watershed will be prioritized in 2012 using currently available age, material and
5 condition information and considering water quality data. If the City repairs,
6 rehabilitates or replaces more than two (2) miles in any Year, that additional length
7 of pipe shall be credited to the City in the following Year(s). The Parties understand
8 and acknowledge that, notwithstanding any provision to the contrary set forth
9 herein, the City shall not be required to spend more than nine hundred thousand
10 dollars (\$900,000.00) to repair, rehabilitate or replace High Risk Pipes in any Year.
11 If, in any Year, the City expends less than nine hundred thousand dollars
12 (\$900,000.00) to repair, rehabilitate or replace High Risk Pipes, the difference
13 between the amount spent that Year and nine hundred thousand dollars
14 (\$900,000.00) [herein "Rollover Amount"] shall carry forward to the following Year
15 and the maximum amount the City may be required to spend pursuant to this Section
16 XVII in that Year shall be increased by the Rollover Amount. For example, if in
17 Year 1 the City spends \$800,000.00 to repair, rehabilitate or replace High Risk Pipes
18 pursuant to this Section XVII, the City may be required to spend up to
19 \$1,000,000.00 to repair, rehabilitate or replace High Risk Pipes in Year 2; the
20 amount which is not spent in Year 2 will carry over to Year 3 and so on for each
21 Year until the Consent Decree terminates. Upon the termination of the Consent
22 Decree any funds that remain from said Rollover Amount shall be deposited in the
23 Supplemental Collection System Sewer Pipe Rehabilitation Account.

24 44. To ensure necessary information is available to prioritize High Risk
25 Pipes for repair, rehabilitation, and replacement, the City shall:

26 a. Assess the condition of all High Risk Pipes using CCTV and
27 assign them a PACP grade by December 31, 2015;

28 b. Evaluate water quality data in the prioritization of High Risk

1 Pipes, both for condition assessment and for repair, rehabilitation or replacement;

2 c. Consider location of sewer pipes relative to the MS4 pipes.

3 Sewer pipes that cross above the storm sewer pipes shall be prioritized over those
4 sewer pipes that do not.

5 45. Within ninety (90) days of the Effective Date, and thereafter by March
6 31 of each Year this Consent Decree remains in effect, the City shall submit an
7 Annual Exfiltration Abatement Program Plan to Channelkeeper. The Annual
8 Exfiltration Abatement Program Plan shall be designed to eliminate the threat to
9 water quality from High Risk Pipes and shall:

10 a. Describe the Exfiltration Abatement Program activities for the
11 preceding Year;

12 b. Identify all storm sewer pipes and sanitary sewer pipes the City
13 considered to determine which sanitary sewer pipes are High Risk Pipes, which
14 High Risk Pipes the City considered for repair, rehabilitation and replacement, and
15 which of those the City intends to repair, rehabilitate or replace during that Year;

16 c. Include an ESRI GIS Shapefile for the pipes identified in
17 subparagraph (b) above that contains the pipe ID number, upstream manhole
18 identifier, downstream manhole identifier, upstream and downstream invert
19 elevations, pipe age (for sanitary sewer pipes only), pipe material (for sanitary sewer
20 pipes only), pipe diameter, and whether the specific sanitary sewer pipe was selected
21 for repair, rehabilitation or replacement; and

22 d. Describe how the factors listed in Paragraph 44 were used to
23 prioritize the pipes selected for repair, rehabilitation or replacement.

24 46. Following the City's submission of the Exfiltration Abatement Program
25 Plan, and for every Year that the Consent Decree is in effect, the City will agendize
26 a City Council meeting for City staff to brief the City Council on the status of the
27 implementation of the Consent Decree. Channelkeeper will be allowed up to twenty
28 (20) minutes each Year to present comments to the City Council in connection with

1 this agenda item. The City will use this opportunity (1) to inform Channelkeeper of
 2 its proposed Plan and (2) to provide a summary of completed work undertaken
 3 pursuant to this Consent Decree.

4 47. Channelkeeper will review the Annual Exfiltration Abatement Program
 5 Plan and submit comments, if any, on the Annual Exfiltration Abatement Program
 6 Plan within thirty (30) days of receipt. The City shall consider Channelkeeper
 7 comments in good faith, and shall have fifteen (15) days from receipt of
 8 Channelkeeper's comments to either incorporate those comments into the Annual
 9 Exfiltration Abatement Program Plan, or explain in writing why those comments
 10 were not accepted. Disputes as to the adequacy of the Annual Exfiltration
 11 Abatement Program Plan shall be resolved via Dispute Resolution as set out in
 12 Section XXV below.

13 XVIII. SSMP

14 48. By August 31, 2012, the City shall cause B&C to revise the City's
 15 SSMP to incorporate the improvements made to the City's sewer system asset
 16 management program recommended by B&C and the requirements of Section XVII
 17 of this Consent Decree.

18 XIX. CONSENT DECREE EXPENDITURES

19 49. Notwithstanding any provision to the contrary set forth herein, the City
 20 shall not be required to spend more than five million one hundred thousand eight
 21 hundred ninety-one dollars (\$5,100,891.00) to comply with the terms of this
 22 Consent Decree for each Year during the term of this Consent Decree, which
 23 amount shall increase by one (1) percent per Year during the term of this Consent
 24 Decree for purposes of inflation in accordance with Table 2 below [herein
 25 "Expenditure Cap"]. The Expenditure Cap is exclusive of, and expressly does not
 26 include, any funds the City may spend on the EE WWTP during the term of this
 27 Consent Decree. The Expenditure Cap shall also increase from year to year by any
 28 Rollover Amount as discussed in Section XVII Paragraph 43 above. If the City

does not meet the SSO Reduction Performance Standard for a given Year, the annual Expenditure Cap on the City's Consent Decree expenditures pursuant to this Paragraph shall increase by three (3) percent of the City Collection System Operating Budget for the following Year.

Table 2

Year 1	Year 2	Year 3	Year 4	Year 5
\$5,100,891	\$5,151,900	\$5,203,419	\$5,255,453	\$5,308,008

XX. ANNUAL REPORT ON COLLECTION SYSTEM

50. Beginning March 31, 2013, and by March 31st of each Year thereafter that this Consent Decree remains in effect, City shall submit an Annual Report to Channelkeeper. The Annual Report shall provide details relevant to the City's implementation of, and compliance with, this Consent Decree during the preceding Year, including:

- a. A statement and explanation of the City's compliance or non-compliance with the SSO Reduction Performance Standard for the preceding Year;
- b. Any program modifications or delays during the preceding Year;
- c. CCTV inspection schedules in the upcoming Year for inspection of Gravity Sewers.
- d. A statement of:
 - i. the miles of sewer that were assessed in the preceding Year;
 - ii. the miles of sewer assessed receiving each grade in the PACP grading system;
 - iii. a summary of the mileage and identification of sewers repaired, rehabilitated, and/or replaced during the preceding Year; and
- e. Identification of the sewer segments cleaned.

1 **XXI. CHANNELKEEPER REVIEW OF CONSENT DECREE**
2 **DELIVERABLES**

3 51. Channelkeeper may review and comment upon the Reports or
4 Programs required by this Consent Decree. Channelkeeper will submit comments,
5 if any, on the Report or Program within thirty (30) days of receipt. Unless provided
6 otherwise, the City shall consider Channelkeeper comments in good faith and shall
7 have twenty (20) days from receipt of Channelkeeper's comments to either
8 incorporate those comments into the Report or Program or explain in writing why
9 those comments were not accepted.

10 **XXII. PAYMENT OF LITIGATION COSTS,**
11 **MONITORING OF CONSENT DECREE COMPLIANCE AND**
12 **SUPPLEMENTAL ENVIRONMENTAL PROJECT**

13 52. To help defray Channelkeeper's attorneys, consultant, and expert fees
14 and costs, and any other costs incurred as a result of investigating, filing this action,
15 and negotiating a settlement, City shall pay Channelkeeper the sum of three hundred
16 thirty-seven thousand and five hundred dollars (\$337,500.00), which shall include
17 all attorneys' fees and costs for all services performed by and on behalf of
18 Channelkeeper by its attorneys and consultants. The payment shall be made within
19 ten (10) days of the Effective Date of this Consent Decree. The payment shall be
20 made in the form of a check payable to "Lawyers for Clean Water Attorney Client
21 Trust Account" addressed to: 1004-A O'Reilly Avenue, San Francisco,
22 California 94129, sent overnight delivery, and except as specifically otherwise
23 provided in Paragraphs 53 and 65, shall constitute settlement for all costs of
24 litigation incurred by Channelkeeper that have or could have been claimed in
25 connection with or arising out of Channelkeeper's lawsuit, up to and including the
26 Termination Date.

27 53. To compensate Channelkeeper for time to be spent by legal staff or
28 technical consultants reviewing compliance reports and monitoring City's
compliance with the terms of this Consent Decree, or participating in any Informal

1 Dispute Resolution under this Consent Decree, City shall pay Channelkeeper the
2 sum of Sixty-Five Thousand Dollars (\$65,000.00). Payment shall be made within
3 ten (10) days of the Effective Date of this Consent Decree, and shall be made
4 payable to "Lawyers for Clean Water Attorney Client Trust Account" addressed to
5 1004-A O'Reilly Avenue, San Francisco, California 94129, and sent overnight
6 delivery.

7 54. Supplemental Environmental Project: To mitigate perceived
8 environmental harms resulting from the allegations in the Complaint, the City shall
9 pay to the Watershed Management Group the total sum of One Hundred Twenty-
10 Five Thousand Dollars (\$125,000.00) (herein "Mitigation Payment") to be used to
11 fund the Santa Barbara Green Living Co-op Low Impact Development ("LID")
12 Program. The details and specifications of the LID Program are set forth in Exhibit
13 B.

14 55. The Mitigation Payment shall be made within ten (10) days of the
15 Effective Date of this Consent Decree, shall be made payable to "Watershed
16 Management Group," and shall be sent via overnight delivery to:

17 Watershed Management Group
18 P.O. Box 44205
19 Tucson, Arizona 85733

20 **XXIII. STIPULATED PENALTIES**

21 56. Reports covered by this Section include: the Annual Report under
22 Section XX; the SSO Reduction Action Plan under Section VIII; the Capacity
23 Assurance Program under Section XIII; the CCTV and Condition Assessment
24 Work Plan under Section XII; and the Annual Exfiltration Abatement Program
25 Plans under Section XVII. For the first instance of delayed reporting, the City shall
26 have a fourteen (14) day grace period after the due date for the reports covered by
27 this Section prior to imposition of stipulated penalties. Channelkeeper is not
28 obligated to notify the City after any submission date has been missed, however it

1 may do so in order to allow the City to promptly address any alleged deficiency.

2 57. The City shall pay the following stipulated payments in the event that it
3 files a late report covered herein after the grace period:

4 a. The City shall pay \$100.00 per day until the report is filed, up to
5 thirty (30) days for a total amount of up to \$3,000.00.

6 b. For any report more than thirty (30) days late, the City shall pay
7 \$3,000.00.

8 c. For any report more than ninety (90) days late, the City shall pay
9 \$5,000.00.

10 d. The above penalties are cumulative, as applicable, to a maximum
11 penalty of \$11,000.00 per report.
12

13 58. In the event a required report is submitted late, Channelkeeper shall
14 notify the City of receipt of the late report and shall include an invoice for the
15 amount of the stipulated penalty, if any, due and payable. The City shall contact
16 Channelkeeper within five (5) days if the City disagrees with Channelkeeper's
17 stipulated penalty calculation and may meet and confer with Channelkeeper or seek
18 Dispute Resolution pursuant to Section XXV. The City shall pay any stipulated
19 payments due pursuant to this Consent Decree within thirty (30) days after receipt of
20 Channelkeeper's invoice itemizing the stipulated payment liability, or within thirty
21 (30) days after resolution of a dispute in favor of Channelkeeper if Dispute
22 Resolution has been invoked.

23 59. All payments of stipulated penalties described above shall be paid by
24 the City via overnight mail to: the Watershed Management Group's Santa Barbara
25 Green Living Co-op Low Impact Development Program. Nothing in this Consent
26 Decree shall prevent Channelkeeper from waiving any stipulated penalties which
27 might be due under this Section XXIII, based on the outcome of the Informal
28 Dispute Resolution (as defined in Paragraph 63 below) process or based on the

1 City's good faith efforts.

2 **XXIV. SUBMISSION OF CONSENT DECREE FOR AGENCY REVIEW**

3 60. Channelkeeper shall submit a copy of this Consent Decree to EPA and
4 the United States Department of Justice ("DOJ") within three (3) days of its
5 execution for agency review consistent with 40 C.F.R. § 135.5. In the event that
6 EPA or DOJ comment negatively on the provisions of this Consent Decree, the
7 Parties agree to meet and confer to attempt to resolve the issue(s) raised by EPA or
8 DOJ.

9 61. Within three (3) days of execution of this Consent Decree by the
10 Parties, Channelkeeper shall notify the Court of the Parties' tentative settlement
11 pending the review of the Consent Decree by DOJ and EPA required by 40 C.F.R. §
12 135.5. Following the DOJ and EPA review period (and after the completion of the
13 meet and confer process referred to in the preceding paragraph, if any),
14 Channelkeeper will thereafter promptly request the Court to enter this Consent
15 Decree.

16 **XXV. DISPUTE RESOLUTION**

17 62. The Dispute Resolution procedures set forth in this Section shall be the
18 exclusive mechanism for resolving disputes between the Parties with regard to any
19 aspect of this Consent Decree.

20 63. Either Party to this Consent Decree shall invoke the dispute resolution
21 procedures of this Section by notifying the other Party in writing of the matter(s) in
22 dispute and of the Party's proposal to resolve the dispute under this Section. The
23 Parties shall meet and confer in a good faith attempt to resolve the dispute
24 informally ("Informal Dispute Resolution") within thirty (30) calendar days from
25 the date of the notice.

26 64. If the Parties cannot resolve a dispute within forty-five (45) calendar
27 days from the date of the notice as specified in Paragraph 63 above, the Party
28 invoking Informal Dispute Resolution may invoke formal dispute resolution

1 (“Formal Dispute Resolution”) by filing a motion before the District Court.

2 65. Litigation costs and fees incurred in Formal Dispute Resolution,
3 including an alleged breach of this Consent Decree, shall be awarded in accord with
4 the standard established by section 505 of the Clean Water Act, 33 U.S.C. § 1365,
5 and case law interpreting that standard.

6 **XXVI. MUTUAL RELEASE OF LIABILITY AND FORCE MAJEURE**

7 66. In consideration of the above, upon the Effective Date of this Consent
8 Decree, the Parties hereby fully release, except as expressly provided below, each
9 other and their respective successors, assigns, officers, agents, employees, elected
10 and appointed officials and all persons, firms, and corporations having an interest in
11 them, from any and all claims, known or unknown, based upon the facts alleged in
12 the Notice Letter, Supplemental Notice Letter, and Complaint. Except for claims
13 for the City’s failure to comply with this Consent Decree, Channelkeeper further
14 releases the City, and its successors and assigns, from any and all claims pertaining
15 to alleged SSOs or other releases of wastewater from the City Collection System
16 that may occur between the Effective Date and the termination of this Consent
17 Decree.

18 67. Nothing in this Consent Decree limits or otherwise affects
19 Channelkeeper’s right to address or take any position that it deems necessary or
20 appropriate in any formal or informal proceeding before the Regional Board, EPA,
21 or any other judicial or administrative body on any other matter relating to the City.

22 68. Neither this Consent Decree nor any legal matter associated with this
23 Consent Decree will constitute or be construed as a finding, adjudication, or
24 acknowledgement of any fact, law, or liability, nor will it be construed as an
25 admission of violation of any law, rule, or regulation. The City maintains and
26 reserves all defenses it may have to any alleged violations that may be raised in the
27 future.

28 69. The City’s obligation to comply with one or more of the provisions of

1 this Consent Decree will be deferred to the extent and for the duration that the delay
 2 in compliance is caused by impossibility due to an event or circumstances beyond
 3 the reasonable control of the City and that could not have been reasonably foreseen
 4 and prevented by the exercise of due diligence by the City.

5 70. Any delays due to the City's failure to make timely and bona fide
 6 applications, the City's failure to exercise diligent efforts to comply with the terms
 7 in this Consent Decree, or normal inclement weather, will not, in any event, be
 8 considered to be circumstances beyond the City's control.

9 71. If the City claims impossibility, it will notify Channelkeeper in writing
 10 within thirty (30) days of the date that the City first knew of the event or
 11 circumstance that caused or would cause a delay in compliance with this Consent
 12 Decree, or the date the City should have known of the event or circumstance by the
 13 exercise of due diligence. The notice will describe the reason for the
 14 nonperformance and specifically refer to this Section of this Consent Decree. It will
 15 describe the anticipated length of time the delay may persist, the cause or causes of
 16 the delay, the measures taken or to be taken by the City to prevent or minimize the
 17 delay, the schedule by which the measures will be implemented, and the anticipated
 18 date of compliance. The City will adopt all reasonable measures to avoid and
 19 minimize such delays. If Channelkeeper disagrees with the City's notice, or in the
 20 event that the Parties cannot timely agree on the terms of new performance
 21 deadlines or requirements, either Party will have the right to invoke the Dispute
 22 Resolution procedures pursuant to Section XXV of this Consent Decree.

23 **XXVII. NOTICES AND SUBMISSIONS**

24 72. Any notifications, submissions, or communications to Channelkeeper
 25 or to the City pursuant to this Consent Decree will be, to the extent feasible, sent via
 26 electronic mail transmission to the e-mail addresses listed below (electronic return
 27 receipt requested) or, if electronic transmission is not feasible, via U.S. Mail or hand
 28 delivery to the following addresses. Any change in the individuals or addresses

1 designated by any Party must be made in writing to all Parties, but the Parties
2 stipulate and agree that the Parties need not amend this Consent Decree to effectuate
3 a change in the notice recipients.

4 If to CHANNELKEEPER:

5 Santa Barbara Channelkeeper
6 Kira Redmond, Executive Director
7 714 Bond Avenue
8 Santa Barbara, CA 93103
9 Telephone: (805) 563-3377
Facsimile: (805) 687-5635
Email: kira@sbck.org

10 Drevet Hunt
11 Lawyers for Clean Water, Inc.
12 1004 O'Reilly Avenue
13 San Francisco, CA 94129
Telephone: (415) 440-6520
Email: drev@lawyersforcleanwater.com

14 If to the CITY:

15 City of Santa Barbara
16 735 Anacapa Street
17 City of Santa Barbara, CA 93101
18 Telephone: (805) 564-5305
19 Facsimile: (805) 897-1993
Email: JArmstrong@SantaBarbaraCA.gov

20 Attn: City Administrator

21 City of Santa Barbara
22 630 Garden Street
23 City of Santa Barbara, CA 93102
24 Telephone: (805) 564-5378
25 Facsimile: (805) 897-2613
26 Email: CAndersen@SantaBarbaraCA.gov
27 Attn: Public Works Director

28 City of Santa Barbara
Post Office Box 1990
Santa Barbara, CA 93102-1990

1 Telephone: (805) 564-5332
2 Facsimile: (805) 897-2532
3 Email: SKnecht@SantaBarbaraCA.gov
4 Attn: Sarah Knecht

5 Gregory Newmark
6 Meyers, Nave, Riback, Silver & Wilson
7 633 West 5th Street, Suite 1700
8 Los Angeles, CA 90071
9 Telephone: (213) 626-2906
10 Facsimile: (213) 626-0215
11 Email: gnewmark@meyersnave.com

12 73. Notices submitted in accordance with this Section will be deemed
13 submitted on the date they are postmarked or, if sent electronically, they will be
14 deemed submitted upon transmission, but a notice is not effective if the sending
15 Party learns that it did not reach the Party to be notified. Notwithstanding the
16 sender's receipt of a successful delivery notification, a recipient that fails to receive
17 the submission may request delivery by other means. Such a request does not affect
18 the timeliness of the original submission.

19 74. The City also agrees to provide to Channelkeeper any new or existing
20 final technical reports or documents within the City's custody or control that are
21 reasonably necessary to confirm City Collection System performance and/or
22 compliance with this Consent Decree within thirty (30) days of written request by
23 Channelkeeper.

24 75. During the life of this Consent Decree, the City will preserve at least
25 one legible copy of all records and documents, including computer-stored
26 information, which memorializes performance of its obligations under this Consent
27 Decree.

28 **XXVIII. GENERAL PROVISIONS**

76. Continuing Jurisdiction. The Parties stipulate that the District Court
will retain jurisdiction to enforce the terms and conditions of this Consent Decree

1 and to resolve disputes arising hereunder as may be necessary or appropriate for the
2 construction or execution of this Consent Decree up to and including the
3 Termination Date in Section VI above.

4 77. Construction. The language in all parts of this Consent Decree will be
5 construed according to its plain and ordinary meaning, except as to those terms
6 defined in Section II above.

7 78. Choice of Law. The laws of the United States will govern this Consent
8 Decree.

9 79. Counterparts. This Consent Decree may be executed in any number of
10 counterparts, all of which together will constitute one original document. Telecopy,
11 scanned copies (i.e., pdf) and/or facsimile copies of original signature will be
12 deemed to be originally executed counterparts of this Consent Decree.

13 80. Modification of the Consent Decree. This Consent Decree, and any
14 provisions herein, may not be changed, waived, discharged, or terminated unless by
15 a written instrument, signed by the Parties.

16 81. Full Settlement. This Consent Decree constitutes a full and final
17 settlement of this matter.

18 82. Integration Clause. This is an integrated Consent Decree. This
19 Consent Decree is intended to be a full and complete statement of the terms of the
20 agreement between the Parties and expressly supersedes any and all prior oral or
21 written agreements, covenants, representations, and warranties (express or implied)
22 concerning the subject matter of this Consent Decree.

23 83. No Third Party Beneficiaries. This Consent Decree does not confer
24 upon any person other than the Parties any rights or remedies hereunder.

25 84. Authority. The undersigned representatives for Channelkeeper and the
26 City each certify that he/she is fully authorized by the Party whom he/she represents
27 to enter into the terms and conditions of this Consent Decree.

28 The Parties hereby enter into this Consent Decree.

CITY OF SANTA BARBARA

Date: March 22, 2012

/s/ Marcelo A. Lopez

By: Marcelo A. López
Assistant City Administrator

APPROVED AS TO FORM:

Date: March 22, 2012

/s/ Sarah J. Knecht

By: Sarah J. Knecht
Assistant City Attorney

SANTA BARBARA
CHANNELKEEPER:

Date: March 22, 2012

/s/ Kira Redmond

By: Kira Redmond
Executive Director

APPROVED AS TO FORM:

Date: March 22, 2012

/s/ Daniel Cooper

By: Daniel Cooper
Lawyers for Clean Water, Inc.
Counsel for Channelkeeper

IT IS SO ORDERED

Date: May 14, 2012


Hon. Alicia G. Rosenberg

Magistrate Judge of the United States
District Court for the Central District of
California

Exhibit A**PACP Table**

Observed Defect	Corrective Action	Time Frame (from date defect observed)	Other Action
PACP Grade 4 or 5 Maintenance Defect	Clean sewer	30 days	Place on preventive cleaning or root control schedule as appropriate
PACP Grade 3 Maintenance Defect	Clean sewer	4 months	Place on preventive cleaning or root control schedule as appropriate
PACP Grade 5 Structural Defect – Immediate Failure Likely	Repair or rehabilitate sewer	ASAP (no more than 90 days) ³	N/A
PACP Grade 5 Structural Defect – Immediate Failure Unlikely	Repair, rehabilitate, or re-inspect sewer	2 years	Reinspect within one year if corrective action not taken
PACP Grade 4 Structural Defect	Repair, rehabilitate, or re-inspect sewer	5 years	Reinspect within three years if corrective action not taken

³ In the event a permit or permission from a third party is required to repair or rehabilitate the Sewer Line Segment, the City shall diligently pursue such permit or permission and that work shall occur within no more than ninety (90) days of obtaining the necessary permits or permission.

Exhibit B

Supplemental Environmental Project

Santa Barbara Green Living Co-op Low Impact Development Program

The funds provided by the Consent Decree will be used to support the Santa Barbara Green Living Co-op Low Impact Development Program ("LID Program"), administered by the Watershed Management Group.

The Green Living Co-op is based on the barn-raising model, where people volunteer their labor to build sustainable systems and then earn the ability to host a workshop at their own home with a volunteer crew. In Santa Barbara, the Co-op provides certified workshop leaders to its members with expertise in the following areas: rainwater harvesting, green infrastructure, and watershed restoration. Co-op members who host workshops at their home pay for materials and other workshop costs. The Santa Barbara Co-op was launched in January 2011; it currently has more than fifty members, and offers free presentations and workshops to the public. The program's webpage announces the latest workshops and educational activities, as well as signup for free membership; to learn more, visit: <http://watershedmg.org/co-op/santa-barbara>. Communication with Santa Barbara Green Living Co-op can be directed to:

Barbara Wishingrad
PO Box 22506,
Santa Barbara CA 93121
Telephone: 805-403-4566,
bwishingrad@watershedmg.org

PROJECT DESCRIPTION

The LID Program will identify willing Santa Barbara property owners to participate in retrofit projects to establish low impact development ("LID") demonstration sites in Santa Barbara. Participants will work with the Santa Barbara Green Living Co-op to design and install LID features on their properties. LID features include earthworks to create rain gardens and stormwater infiltration basins; rain water harvesting strategies such as roof downspout disconnects; and graywater systems. The LID Program in Santa Barbara will include:

- workshops and outreach through the Santa Barbara Green Living Co-op;
- the creation of LID/green infrastructure demonstration sites in Santa Barbara;

- 1 • professional trainings on water harvesting and green infrastructure; and
- 2 • a series of site tours upon completion to showcase the projects and raise awareness and interest in LID in the wider Santa Barbara community.

3
4 Over the course of the next two years, the LID Program is expected to include
5 30 to 40 (and shall include no less than 20) hands-on workshops to implement 30 to
6 40 (and not less than 20) residential demonstration projects, including rain gardens,
7 in the Santa Barbara community. The funds provided will be used for \$500 to
8 \$1,000 subsidies to workshop hosts in the Santa Barbara Co-op, with first priority
9 given to those with financial need.

10 With the funds provided, the LID Program should also result in the creation
11 of at least 2-3 LID/green infrastructure demonstration sites in Santa Barbara. Sites
12 to be selected will open to the public to visit, and WMG is committed to monitoring
13 and maintaining the site for the long-term.

14 In addition, implementation of the LID Program include professional
15 trainings in green infrastructure and water harvesting to ensure more Santa Barbara
16 professionals have the skills to design and implement these practices. The funds
17 will allow us to bring in leading experts to teach the course and offer scholarships to
18 Santa Barbara residents to make the trainings affordable.

19 Our Santa Barbara Program Manager will continue to offer free educational
20 presentations to the public and expand our presentations to offer sessions in Spanish
21 to reach a more diverse demographic. A series of site tours will be conducted once
22 demonstration gardens and sites are completed. Outreach, including site tours and
23 educational presentations, will ensure the public learns about the Co-op, the free,
24 educational workshops, and financial subsidies.

25 **PROJECT COSTS**

26 WMG expects to spend approximately \$75,000 during the first year, and
27 approximately \$50,000 during the second year of the LID Program. Overall, the
28 LID Program funds are expected to be spent as follows:

- 29 • Green Living Co-op workshops & demonstration gardens: ~\$62,500
- 30 • LID/green infrastructure demonstration sites: ~\$25,000
- 31 • Water harvesting and green infrastructure professional training: ~\$20,000
- 32 • Public Outreach and Education: ~\$17,500

33 For reference, the typical costs of a sample residential demonstration garden and a

LID/green infrastructure demonstration site are provided in the tables below.

Sample cost for residential demonstration rain garden

Materials - plants, mulch, rock, etc.	\$400
Staff Time	\$800
Contractor – excavating	\$750
Project Administration	\$195
Total	\$2,145

*Some of these costs will be covered through the settlement funds and some will be covered by the workshop host.

Sample cost for green infrastructure demonstration site, commercial site

Materials - plants, mulch, rock, signage	\$2000
Staff Time	\$5600
Contractor – excavating, gutters, and curb cuts	\$2500
Project Administration	\$1010
Total	\$11,110

PROJECT DELIVERABLES

The WMG will provide the following deliverables to track its progress and ensure completion of the LID Program:

- A progress report by June 30, 2013, detailing project accomplishments and funds spent.
- A final report after the project is completed by June 30, 2014, detailing project accomplishments and certifying that all funds have been expended on the project.

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